



HS REVIEW SUB-COMMITTEE
WORKING GROUP

-
2nd Session
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NR0475E1
(+ Annex)

O. Eng.

Brussels, 9 October 2003.

POSSIBLE NEW HEADING FOR COMMUNICATIONS EQUIPMENT

(PROPOSAL BY THE US ADMINISTRATION)

(Item II.8 on Agenda)

Reference documents :

NR0323E1 (RSC/26)
NR0325E1 (RSC/26)
NR0332E2, Annexes D/7 and F/20
(RSC/26 – Report)
NR0334E1 (RSC/WG/1)

NR0335E1 (RSC/WG/1)
NR0387E1 (RSC/WG/1)
NR0389E1 (RSC/WG/1)
NR0400B3, Annex G, paragraph 25
(RSC/27 – Report)

I. BACKGROUND

1. At its 26th Session (September 2002), the Review Sub-Committee held a preliminary discussion on possible amendments to Chapters 84, 85, 90 and 95 concerning information technology products (Doc. NR0323E1 – **EC** proposal).
2. At the first Session of the Working Group of the Review Sub-Committee, the **US** Delegate withdrew his administration's proposal concerning Note 5 (C) to Chapter 84 (Doc. NR0389E1, Annex).
3. At the Informal Working Group on restructuring Section XVI meeting (4 – 5 May), the Working Group concluded that it would continue examination of the **US** proposal at its next Session in September, based on a new document by the **US**, taking into account the following :
 - Separate heading (heading XX.X3) covering apparatus having a communication function (possibly including those having additional functions for audio (sound), video (image) or other data); it concerns the proposed headings 85.49 (**US**), 85.72 (**EC**) and 8L.LL (**Japan**) :

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⌚ Priority to be given to this heading by (i) sequence (i.e., application of GIR 3 (c)) or (ii) a (Section or Chapter) Note

⌚ Also to include transmission and receiving apparatus?

- **EC**, **Japan** and **US** will consult with their respective industries to see whether or not the term “data”, which is used in Note 5 to Chapter 84, heading 85.24 and in proposed heading 85.49 (**US**), needs to be defined and if so, how

4. The **US** Administration submitted its draft to the Informal Group participants on 26 August 2003. After examining the text, the Informal Group agreed to forward it to the Second Session of the Working Group of the Review Sub-Committee, with certain texts placed in square brackets. This text is set out in the Annex to this document. The Secretariat has included the **US** Administration’s written explanation which accompanied their original submission.

II. PROPOSAL FROM THE **US** ADMINISTRATION FOR A NEW HEADING FOR APPARATUS FOR TRANSMISSION OR RECEPTION OF VOICE, DATA OR IMAGES

5. “The **United States** submits its draft for a possible compromise regarding communications apparatus. We have tried to include consequential amendments to legal notes and other headings. Of course, numbers for other headings and subheadings are subject to change as the Sub-Committee considers proposals in other product areas.

6. The presentation of legal changes is followed by an explanation.

- (1) Note 2 (a) to Section XVI is modified by deleting the expression “85.48” and inserting “85.51” in its place.
- (2) Note 2 (b) to Section XVI is modified by deleting the expressions “85.17” and “85.43” and inserting “XX.X3” and “85.50”, in their respective places.
- (3) Note 2 (c) to Section XVI is modified by deleting the expression “85.48” and inserting “85.51” in its place.
- (4) Heading 85.17 is deleted.
- (5) Heading 85.25 and its structured nomenclature are modified by deleting “radio-telephony, radio-telegraphy,” from the heading language and by deleting subheadings 8525.10 and 8525.20.
- (6) Heading 85.27 and its structured nomenclature are modified by deleting “radio-telephony, radio-telegraphy or” from the heading language.
- (7) In the first one-dash subheading (8527.1), replace “including apparatus capable of receiving also radio-telephony or radio-telegraphy” with “whether or not combined, in the same housing, with apparatus for the reception of other radio transmissions.”
- (8) In the second one-dash subheading (8527.2), replace “including apparatus capable of receiving also radio-telephony or radio-telegraphy” with “whether or not combined, in the same housing, with apparatus for the reception of other radio transmissions.”
- (9) In the third one-dash subheading (8527.3), replace the language with “Other”.
- (10) Subheading 85.27.90 is deleted.

- (11) Heading 85.37 is modified by deleting the expression “85.17” and inserting “85.49” in its place.
- (12) Headings 85.43 and 85.48 are renumbered as headings 85.50 and 85.51, respectively.
- (13) The following new heading 85.49 and its structured nomenclature are inserted after present heading 85.47 :

Explanation:

- 7. This proposal seeks to simplify the classification of equipment used in “telephony and telegraphy” by grouping all of this apparatus in a single new heading, and by replacing obsolete terminology with language that is currently used in industry. Our proposed heading 85.49 will cover all apparatus for the reception and transmission of voice, data or images. It would include radio-telephony apparatus and radio-telegraphy apparatus from headings 85.25 and 85.27, and optical apparatus from chapter 90. Article descriptions of headings 85.25 and 85.27 and Note 1(h) to Chapter 90 would be modified.
- 8. We are not aware of any significant trade in apparatus of current subheadings 8527.12 through 8528.39 that also incorporate radio-telephony or radio-telegraphy reception. Therefore, we are not proposing to renumber those subheadings, even though we are removing the reference to such apparatus.
- 9. The amendment to Note 1(h) to Chapter 90 is intended to ensure that, with the exception of broadcast equipment covered in headings 85.25, 85.27 and 85.28, all telephony and telegraphy apparatus is classified in new heading 85.49. In particular, it allows for classification of certain optical apparatus currently in Chapter 90 (e.g., heading 90.13) in the new heading. No other changes or modifications are necessary or recommended for Chapter 90.
- 10. This proposal also would simplify the classification of network communications equipment. New heading XX.X3 will combine the classification of computer network equipment, such as local area, metropolitan area or wide area networks, **as well as** equipment used to provide communications in other types of networks (e.g., voice networks). As technologies converge, equipment used in computer networks are becoming more and more difficult to distinguish from equipment used in other networks (e.g., public switched networks). Therefore, all equipment that is used to provide communications in a network is grouped together in proposed subheadings 8549.31 through 8549.39. This proposal currently does not include a legal modification excluding networking equipment from chapter 84, specifically heading 84.71. We assume that such an exclusion will be considered in connection with the Subcommittee’s examination of Note 5 to Chapter 84.
- 11. In the structured nomenclature for new heading 85.49, we propose separate identification of certain products that are increasingly important in trade. The new subheadings will cover cellular telephones, radio pagers and cellular telephone base stations.
- 12. We question the need for the subheading for “videophones.” We tentatively include a subheading for videophones but question the need based on the level of trade. We would welcome relevant trade data from other administrations.

Background :

13. Under the existing texts, headings 85.17, 85.25, 85.27 and 90.13 cover apparatus for telephony or telegraphy. Such equipment is classified in heading 85.17 if it is line equipment; in headings 85.25 or 85.27 if it is wireless; or in Chapter 90 (usually heading 90.13) if the optical components are not for a subsidiary purpose.
14. Recent advances in technology have made the distinctions between these headings obsolete. Today, equipment for telephony or telegraphy must be compatible with a combination of technologies. For example, there exists equipment that is used to multiplex and route signals that are transmitted in telephone, Internet, video, data and other systems. The equipment includes interfaces that allow it to accept line (copper-wire), optical and wireless signals. This ability makes it possible to transmit information over a variety of different systems. The trend toward this convergence of technologies is increasing.
15. Proposed new heading 85.49 will cover equipment that is distinct from the apparatus that will remain in headings 85.25 and 85.27. There will be a clear line of separation because the equipment of new heading 85.49 is used for "point-to-point" communication -- that is, to transmit and receive information between two points. In contrast, equipment produced for the commercial radio broadcasting and television industries are used to "broadcast" information from a central point to two or more receiving devices simultaneously.
16. New heading 85.49 will also cover local area (LAN), metropolitan area (MAN) or wide area (WAN) networking equipment. Classification of this apparatus has been the subject of numerous classification disputes. These disputes have taken an extraordinary amount of the Harmonized System Committee's time due, in part, to the reservations that often followed the decisions. This proposal should eliminate future classification disputes while, at the same time, assuring uniform classification of this apparatus.
17. Proposed subheading 8549.31, for "base stations for cellular telephone systems", refers to a fixed device that receives radio signals from a mobile radio transceiver (cellular telephone). The base station connects cellular telephones to a line telephone network (either public or private)."

III. SECRETARIAT COMMENTS

18. The Secretariat would note that reference is made to "metropolitan area networks" in paragraph 16 above but the text before the Working Group of the Review Sub-Committee does not include this reference.
19. The Secretariat would draw the Working Group's attention to Agenda Item II.6 which, if the proposals therein are accepted, would have an effect on the proposal in the Annex to this document for heading 85.25.
20. Finally, as pointed out by the **US** Administration in Doc. NR0325E1, subheadings 8549.21 and 8549.29 will be unnecessary if the Review Subcommittee adopts the **US** proposal on printers and printing machinery in heading 84.43. That proposal would result in these goods being transferred to heading 84.43.

IV. CONCLUSION

21. The Working Group is invited to examine new heading 85.49 and consequential amendments elsewhere, as set out in the Annex to this document, taking into account the comments of the Secretariat.

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